

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at GREENEVILLE

DAISY E. KEESEE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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Case No. 2:10-cv-187

Judge Mattice
Magistrate Judge Lee

ORDER

In December 2012, Plaintiff moved for attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (Doc. 24). The Government indicated its assent to Plaintiff's request, and on December 28, 2012, Magistrate Judge Susan Lee filed a Report and Recommendation ("R&R"), in which she recommended that Plaintiff's Motion be granted and that Plaintiff be awarded \$3475.00 in attorney's fees and \$17.13 in expenses. (Doc. 28). No party objected to the R&R.

On remand of her case to the Commissioner, Plaintiff was awarded disability benefits by the Commissioner. (See Docs. 19-21, 30-31, 33). Plaintiff was represented on a contingency-fee basis, by which Plaintiff's attorney would receive 25% of any past-due benefits award. Pursuant to that arrangement, Plaintiff moved for attorney's fees under 42 U.S.C. § 406(b) in February 2013. (Doc. 29). Again, Defendant assented to Plaintiff's request. (Doc. 32). In March 2013, Magistrate Judge Lee filed a second R&R, recommending that Plaintiff's February 2013 Motion be granted and that Plaintiff's Counsel be awarded fees in the amount of \$5,754.03. (Doc. 33). Because Plaintiff's Counsel is not entitled to fees under both the EAJA and § 406(b), Magistrate Judge Lee

further recommended that any fee award under the EAJA be credited to Plaintiff. No party objected to the R&R.

The Court has carefully reviewed the pending Motions, the Magistrate Judge's R&R's, and the entire record. The Court agrees in whole with the Magistrate Judge's well-reasoned conclusions.

Accordingly, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Lee's December 2012 and March 2013 R&R's. (Docs. 28, 33). Plaintiff's Motion for Attorney's Fees under the EAJA (Doc. 24) is **GRANTED**, and Plaintiff is awarded attorney's fees in the amount of \$3,475.00 and expenses in the amount of \$17.13. Plaintiff's Motion for Attorney's Fees under 42 U.S.C. § 406(b) (Doc. 29) is **GRANTED**, and Plaintiff's Counsel is hereby awarded fees in the amount of \$5,754.03. For the reasons stated by the Magistrate Judge in her March 2013 R&R (Doc. 33), it is hereby **ORDERED** that the EAJA fee award of \$3,475.00 **SHALL** be payable directly to and credited to Plaintiff, rather than Plaintiff's attorney.

SO ORDERED this 20th day of May, 2013.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE